

CHERYL ZONDLO,
Plaintiff

V.

**ALLIED INTERSTATE, LLC,
Defendant**

No. 3:16cv936
(Judge Munley)

ORDER

AND NOW, to wit, this 12th day of February 2018, in consideration of the parties' cross-motions for summary judgment (Docs. 27, 36) it is hereby

ORDERED:

1. Defendant's motion is **DENIED** to the extent that plaintiff does have standing to pursue this claim;

2. Plaintiff's motion is **GRANTED** to the extent that the defendant is collaterally estopped from relitigating the question of whether defendant's dialing software constitutes an automated dialing telephone system under the Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227;

3. Defendant's dialing software, aQrate, is an automated dialing telephone system for the purposes of this case;

4. The parties motions are **DENIED** with respect to the issue of whether the defendant had consent to call the plaintiff after October 7, 2015; and

5. The parties motions are **DENIED** with respect to the issue of whether the defendant was entitled to continue placing calls to plaintiff's 9301 Landline Number after November 18, 2015.

BY THE COURT:

s/ James M. Munley
JUDGE JAMES M. MUNLEY
United States District Court